UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to:
OSB2000-0026

April 4, 2000

Mr. Lawrence C. Evans
U.S. Army Corps of Engineers
Portland District, CENWP-CO-GP
P.O. Box 2946
Portland, OR 97208-2946

Re: Consultation on the Effects of Cow Creek Infiltration Gallery Water Intake Construction (Permit ID No. 00-32) on Umpqua River Cutthroat Trout and Oregon Coast Coho Salmon

Dear Mr. Evans:

This concludes our correspondence regarding the effects on Umpqua River (UR) cutthroat trout and Oregon Coast (OC) coho salmon from issuance of a Section 404 permit to the city of Glendale, Oregon (City) to construct an infiltration gallery-type water intake in Cow Creek (Permit ID No. 00-32) in Douglas County, Oregon. The City would increase its capacity to withdraw water from Cow Creek through replacement of its current water intake and other water system modifications.

The UR cutthroat trout was listed by the National Marine Fisheries Service (NMFS) under the Endangered Species Act (ESA) as endangered on August 9, 1996 (61 FR 41514). Critical habitat for UR cutthroat trout was designated by the NMFS on January 9, 1998 (63 FR 1338). OC coho salmon was listed by the NMFS under the ESA as threatened on August 10, 1998 (63 FR 42587); critical habitat for OC coho salmon was designated on February 16, 2000 (65 FR 7764). This consultation is undertaken pursuant to section 7(a)(2) of the ESA and its implementing regulations, 50 CFR Part 402.

In a January 26, 2000 letter, the Portland District Army Corps of Engineers (COE) requested Endangered Species Act (ESA) Section 7 informal consultation with the National Marine Fisheries Service (NMFS) on the proposed issuance of a Clean Water Act Section 404 permit (Permit ID No. 00-32) to the City. The new water intake, which would be buried beneath the bed of the creek, would replace an existing screened intake in the creek which has deteriorated and which is thought to have insufficient capacity. Although the COE made a "not likely to adversely affect" determination for this project, after review of the information provided by the Corps of Engineers (COE) and additional investigation, the NMFS concluded that more than a negligible likelihood of adverse effect to individuals of the listed species is likely because substantial in-water work is proposed during a period in which individuals of one or both species
is likely to occur at and near the site. Based on this information, the COE agreed to modify its effect determination to "likely to adversely affect" (pers. comm., Dale Haslem, regulatory specialist, COE, March 9, 2000).

Enclosed is the Biological Opinion on the COE's role in permitting the proposed modifications to the City's potable water treatment facility and authorizing the incidental take of UR cutthroat trout and OC coho salmon that may be caused by this action provided that the terms and conditions of the incidental take statement are met. This Biological Opinion analyzes the effects of both the construction and operation of the proposed modifications on ESA-listed anadromous fish species, and may adequately address the project-specific obligations of other Federal agencies under section 7 of the ESA.

Although NMFS expects some effects to individual fish and their habitat from these actions, the effects to essential features of UR cutthroat trout and OC coho salmon habitat are expected to be minor because of project design and location. Adverse effects to individuals of these species are expected to be rare because of project design, location, and reasonable and prudent measures to be taken by the City.

Questions should be directed to Dan Kenney, Fishery Biologist, Oregon State Branch Office at (541) 957-3385.

Sincerely,

William Stelle, Jr.
Regional Administrator

cc: Dave Loomis, Oregon Department of Fish and Wildlife
Steve Wille, U.S. Fish and Wildlife Service
Eve Foote, City of Oakland
Pete Dalke, Oregon Department of Environmental Quality